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SUBJECT: Argentina: PhRMA Unexpectedly Upbeat on IP Environment

Ref: 07 Buenos Aires 750

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Summary  
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¶1. (SBU) Members of PhRMA's (Pharmaceutical Researchers and Manufacturers of America) Latin American task force, on a two-day visit to Argentina to meet with GoA officials, local affiliates, and pharmaceutical chambers, remain concerned about inadequate data protection for new pharmaceutical products and the lack of linkage between patents and market access. However, they praised improvements in patent processing, and said that judicial injunctions in patent cases were not too difficult to obtain. Separately, the new GoA Science Minister expressed to Ambassador his interest in increasing pharmaceutical company research and development activity in Argentina, and acknowledged that an improved patent regime could facilitate that goal. End Summary.

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Data Protection Concerns, Praise on Patent Processing  
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¶2. (SBU) PhRMA task force members (Will Stephens, Johnson and Johnson VP of International Government Affairs; David Talbot, Eli Lilly Director of International Government Affairs; Nina DeLorenzo, Schering-Plough Senior Manager of International Public Affairs; and Andrew Rudman, PhRMA Assistant VP for Latin America) met March 4 with Ambassador. They had just completed a two-day country visit, during which they met with the Patent Commissioner of (USPTO-equivalent) INPI, local representatives of the International Judicial Academy, and the economic advisor to the EU Mission who covers intellectual property issues. They were accompanied by Argentina country managers from Pfizer and Janssen-Cilag (Johnson and Johnson's local subsidiary).

¶3. (SBU) DeLorenzo noted that non-existent data protection for new pharmaceutical products and the lack of linkage between patents and market access allow the GoA's FDA-equivalent to approve sales of patent-violating products. This, she said, remains the most important issue for Schering-Plough in Argentina. Rodrigo San Martin, Country Manager of Pfizer, echoed that concern. However, Stephens praised INPI for its improvements in recent years on patent processing, and said judicial injunctions in patent cases were not too difficult to obtain, despite the process being "slower than we would like." Overall, he said, the group was positively impressed by Argentina's IP progress. When Ambassador asked for examples of countries in the region who could serve as IP exemplars, Rudman

opined that Peru was one, especially in terms of efforts to encourage innovation. He called Chile an example of what not to do, and stated that the GoC was making very little effort to adhere to TRIPS-plus IP standards negotiated in the USG/GoC bilateral FTA. Stephens called Mexico a "leading case" in the areas of pricing reforms, engagement on ways to increase innovation, and dialogue with the pharmaceutical industry, and an example that Argentina should seek to emulate.

14. (SBU) Ambassador noted that he met with new Science, Technology, and Innovation Minister Lino Baranao, who told him that he wanted to see more primary research conducted in Argentina. Ambassador told Baranao that better patent protection would probably facilitate that goal, and the Minister agreed. (The Ministry was created last December by President Cristina Fernandez de Kirchner.) Stephens said that the pharmaceutical industry's increasing production of complex, new-generation biological products requires that IP patent regimes worldwide modernize their legal and regulatory frameworks to reflect that greater complexity. Ambassador noted Baranao had raised the same issue, and has said that he wanted to make an effort to ensure that Argentina's patent regime is appropriately updated.

15. (SBU) Ambassador suggested that the local pharmaceutical chamber CAEME present an "innovation package" of proposals to Minister Baranao on how the GoA can best spur new pharmaceutical company investment in R&D in Argentina. President Cristina Fernandez de Kirchner has made attracting new investment a central theme of her tenure, Ambassador noted, and being able to tie specific changes in the IPR regime to increased investment might make a compelling argument, with Baranao and Economy Minister Lousteau as potential allies. CAEME Executive Director Ernesto Felicio noted that a number of local pharmaceutical firms who are not members of CAEME are conducting research here and could be allies in addressing IP patent regime deficiencies. (On the other hand, all PhRMA members doing business in Argentina are members of CAEME.)

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COMMENT  
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16. (SBU) PhRMA's positive outlook on pharmaceutical IP protection in Argentina stood in stark contrast to the Embassy's previous meetings with industry reps, including an April 2007 round-table for local country managers (Reftel). During that meeting, company reps listed flaws in Argentina's patent protection system including the slow issuance of patents, the lack of linkage between the GoA entity approving patents and Health Ministry approval to market generic copies, and a weak legal process to fight patent infringement. Interestingly, Talbot did not take issue with Stephens' optimism on preventing patent infringement via injunctions, even though Lilly's local country manager had highlighted exactly that issue as a major concern in a November 2007 meeting with the Ambassador.

17. (SBU) The apparent disconnect is likely due to differing perspectives of the local branches and home offices of the companies. The local branches face the difficulties of the Argentine IPR regime daily, whereas from the bottom line perspective of headquarters, Argentina is an increasingly profitable place to do business. Product sales are growing here - pharmaceutical sales, of which approximately 50% are by research-based firms belonging to CAEME, reached \$2.6 billion in 2006, double that of 2002, and pharmaceutical consultant IMS Health predicts they will grow 29% to \$3.4 billion by 2008 - and clinical trials run by pharmaceutical companies also continue to grow rapidly, with CAEME estimating that its members, which include many PhRMA firms, spent USD 92 million on such research in Argentina in 2007, a 39.5% increase from 2006.

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